

LEGAL/103485957.v1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION

KENNETH R. KING, EXECUTOR OF THE)	CIVIL DIVISION
ESTATE OF BONNIE B. KING, Deceased,)	
)	No: _____
Plaintiff,)	
)	U.S. District Judge _____
v.)	
)	PETITION FOR REMOVAL TO U.S.
BROOKDALE SENIOR LIVING)	DISTRICT COURT ON BEHALF OF
COMMUNITIES, INC.,)	DEFENDANT, BROOKDALE SENIOR
)	LIVING COMMUNITIES, INC.
Defendant.)	
)	
)	
)	

TO THE JUDGES OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Defendant, Brookdale Senior Living Communities, Inc., by and through counsel, respectfully submits this Petition for Removal.¹ On December 22, 2015, Plaintiff Kenneth R. King, Executor of the Estate of Bonnie B. King, filed a Complaint in the Summit County Court of Common Pleas, Ohio that was assigned case number CV-2015-12-5752. (Defendant's Exhibit "B"). Plaintiff's Complaint stated that he resides at 190 North Messner Road, Akron, Ohio, located in Summit County, Ohio. The Estate of Bonnie R. King is currently open and pending in the Summit County, Ohio, Probate Court bearing case number 2015 ES 00421. Plaintiff's Complaint attempted to state causes of action under Ohio law for wrongful death and a survival claim for personal injury, in excess of \$25,000. The facts alleged are that a fall that allegedly occurred on July 4, 2014 resulted in decedent suffering a fractured cervical vertebra, which lead

¹ Plaintiff purports to name three defendants. However, all three defendants refer to a single entity, Brookdale Senior Living Communities, Inc., and fictitious names owned by Brookdale Senior Living Communities, Inc.

to her death on July 18, 2014. Plaintiff's Complaint requests compensatory damages for wrongful death as set forth in R.C. 2125, for conscious pain and suffering and for funeral expenses.

Plaintiff's Complaint names as a defendant Brookdale Senior Living Communities, Inc. Brookdale Senior Living Communities, Inc. is a corporation incorporated in the State of Delaware on December 13, 1993. (Defendant's Exhibit "A;" Affidavit of David Topczewski). It has been continually domiciled in the State of Delaware since that time. (Defendant's Exhibit "A;" Affidavit of David Topczewski). Brookdale Senior Living Communities, Inc.'s principal place of business has continually been the State of Tennessee at all times relevant to the allegations of Plaintiff's Complaint. (Defendant's Exhibit "A;" Affidavit of David Topczewski). Defendant Brookdale Senior Living Communities, Inc. was served with Summons and Complaint on December 28, 2015. (Defendant's Exhibit "H").

Plaintiff's Complaint is one of complete diversity amongst the parties. Complete diversity existed at the time of the filing of Plaintiff's Complaint on December 22, 2015, as well as at the time of removal to U.S. District Court. The amount in controversy exceeds \$75,000, based upon the allegations and relief sought in Plaintiff's Complaint. Under 28 U.S.C. §1332(a)(1), this Court has original jurisdiction over the claims contained in the attached Complaint as complete diversity amongst the parties exists and the amount in controversy exceeds \$75,000. Therefore, this entire case may be removed to this Court under 28 U.S.C. §§1441(a) and (b).

In addition, this Petition is timely under 28 U.S.C. §1446. As stated above, Defendant Brookdale Senior Living Communities, Inc. has attached copies to this Petition for Removal of

all filings that were made in Summit County Court of Common Pleas No. CV-2015-12-5752, including:

- (1) CIVIL COMPLAINT (Attachment "B");
- (2) INSTRUCTIONS TO CLERK FOR SERVICE (Attachment "C");
- (3) CASE DESIGNATION FORM (Attachment "D");
- (4) PLAINTIFF'S MOTION FOR ADDITIONAL TIME TO FILE AFFIDAVIT(S) OF MERIT (Attachment "E");
- (5) SUMMONS ISSUED BY CERTIFIED MAIL BROOKDALE SENIOR LIVING COMMUNITIES, INC. (Attachment "F");
- (6) SUMMONS ISSUED BY CERTIFIED MAIL BROOKDALE SENIOR LIVING COMMUNITIES, INC. (Attachment "G");
- (7) SUMMONS ISSUED BY CERTIFIED MAIL BROOKDALE SENIOR LIVING COMMUNITIES, INC. (Attachment "H");
- (8) TERMINATION/TRANSFER FROM JUDGE CALLAHAN TO JUDGE CROCE (Attachment "I");
- (9) SERVICE OF PROCESS TRANSMITTAL (Not part of the docket, Attachment "J").

These attached documents represent the only process, pleadings, or orders alleged that have been served upon Defendant Brookdale Senior Living Communities, Inc. to date. To the extent that it is considered that Plaintiff has brought suit against more than one defendant, all defendants affirmatively consent to the removal of this action to U.S. District from the Summit County Court of Common Pleas.

WHEREFORE, Defendant Brookdale Senior Living Communities, Inc. prays that the case presently pending against it in the Summit County Court of Common Pleas be removed to this Court and proceed according to law.

Respectfully submitted,

MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN

By: /s/ Kenneth W. McCain

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CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2016, a copy of the foregoing was filed electronically.
Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN

By: /s/ Kenneth W. McCain

KEITH HANSBROUGH (0072671)
KENNETH W. MCCAIN (0069720)

Counsel for Defendant, Brookdale Senior Living
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